
(2021) 08 RAJ CK 0014

In the Rajasthan High Court

Case No : D. B. PIL Petition No. 7441 Of 2021

Chandrabhan S/O Shri Sohan

APPELLANT

Vs

State Of Rajasthan And Others

RESPONDENT

Date of Decision : 05-08-2021

Acts Referred:

Citation : (2021) 08 RAJ CK 0014

Hon'ble Judges : Sabina, J;Chandra Kumar Songara, J

Bench : Division Bench

Advocate : Sanjay Tyagi

Final Decision : Disposed Of

Judgement

Petitioner has filed this public interest litigation in connection with illegal encroachment over gair mumkin johad land and public way bearing Khasra No. 100, 101, 198, 276, 277, 286, 307, 339, 391, 472, 654/123 and 80 situated at Village Bangothari, Tehsil Surajgarh, District Jhunjhunu.

Learned counsel for the petitioner has submitted that this Court vide order dated 01.03.2019 passed in Anand Kumar Vs. State of Rajasthan & Others (D. B. P.I.L. Petition No. 4419/2019) has directed the petitioner therein to approach the respondents by filing a detailed representation, who were further required to examine the grievances of the petitioner therein and do the needful within a period of three months from the date of filing of the representation.

Order dated 01.03.2019 passed in Anand Kumar Vs. State of Rajasthan & Others (D. B. P.I.L. Petition No. 4419/2019) reads as under:

"This public interest litigation petition has been filed by the petitioner contending that he is resident of Village Bass Bijoli, Tehsil Surajgarh, District Jhunjhunu. Certain residents of that village have made illegal encroachments on charagah land (pond/johad) bearing Khasra No. 139/38 which has resulted into obstruction of the flow of water into village pond/johad and deprived the villagers of its use.

It is contended that Circular dated 25.04.2011 has been issued by the State Government in compliance of judgment of the Supreme Court in Jagpal Singh & Others Vs. State of Punjab & others, AIR 2011 SC 1123 whereby allotment or regularisation of charagah land/catchments of a pond/water reservoirs and ponds for private or commercial purposes has been stopped with immediate effect. Tehsildar, Surajgarh vide order dated 26.11.2018 has declared them trespassers on charagah land and directed the Inspector (L.R.) and Patwari Halka to remove their illegal encroachments. Notices have also been served on the encroachers in pursuance of the aforesaid order. However, the trespassers have refused to remove the encroachments. The Inspector (LR) prepared a report with the help of Patwari Halka on 04.01.2019 stating that there is an apprehension of disturbance of peace at the site and removal of encroachment is possible only with the help of JCB machines, tractors and police force etc. It is submitted that the encroachers are being provided electricity connection and the poles have also been erected over the disputed land. It is quite possible that after providing electricity connections, the charagah land will be allotted/regularised in favour of the encroachers.

This Court vide order dated 30.01.2019 passed in Jagdish Prasad Meena & Others Vs. State of Rajasthan & Others, D.B. Civil Writ Petition (PIL) No. 10819/2018 took note of fact that large number of writ petitions are being filed before this Court styled as public interest litigation petitions which pertained to encroachment over the pasture land/ land of 'johad', 'talab'/ river/river bed/ public way/ Shamshan/Kabristan etc. and directed the Chief Secretary of the State to devise a permanent mechanism, which should be operational in every District of the State where the concerned District Collector should be required to periodically notify for the information of the general public to lodge the complaints/representations with regard to such encroachments with a specially designated Public Land Protection Cell (for short 'PLPC') for rural areas. It was further directed by this Court that the PLPC should be headed by District Collector and function under his direction and supervision.

The PLPC shall get such complaints/representations enquired into by deputing concerned Sub Divisional Officer/Tehsildar/Naib Tehsildar so as to verify whether or not such encroachments have actually taken place on such land. If the allegations are found to be substantiated, appropriate steps in accordance with law be immediately taken for removal of the encroachments and appropriate penal action be also taken against the trespassers. The complaints/representations received in the PLPC should be decided by passing speaking order, informing the respective complainant/ representationist about the action taken. It was observed that this would obviate the necessity of such complainants/ representationists approaching this Court directly by way of public interest litigation.

In view of above, instead of directly entertaining this public interest litigation petition, this Court requires the petitioner to approach the respondents by filing a

detailed representation along with copy of aforesaid order, who shall examine the grievances of the petitioner and do the needful within a period of three months from the date of filing of the representation.

With the aforesaid direction, writ petition stands disposed of.

Stay Application No. 4156/2019 also stands disposed of."

In view of the above order, the petitioner is directed to approach Respondent No. 2 by filing a detailed representation along with copy of this order and the grievances of the petitioner shall be examined by Respondent No. 2 and needful be done within a period of three months from the date of filing of the representation.

Petition stands disposed of accordingly.